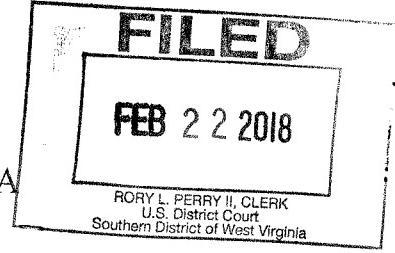


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA



Steven Lee Adkins Jr.

# 3550462

(Enter above the full name of the plaintiff or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 2:18-cv-00342  
(Number to be assigned by Court)

Warden David Ballard

Captain Toney

C.O. Dempsey

John Doe #1, John Doe #2

(Enter above the full name of the defendant or defendants in this action)

**COMPLAINT**

**I. Previous Lawsuits**

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes \_\_\_\_\_ No X

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: N/A

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Defendants: N/A

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county):

N/A

3. Docket Number: N/A

4. Name of judge to whom case was assigned:

N/A

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

N/A

6. Approximate date of filing lawsuit: N/A

7. Approximate date of disposition: N/A

**II. Place of Present Confinement: Mount Olive Correctional Complex**

A. Is there a prisoner grievance procedure in this institution?

Yes X No \_\_\_\_\_

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes X No \_\_\_\_\_

C. If your answer is YES:

1. What steps did you take? Grieved to Unit team, then Warden  
then Commissioner. (Ex#1)

2. What was the result? \_\_\_\_\_

D. If your answer is NO, explain why not: \_\_\_\_\_

**III. Parties**

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: Steven L. Adkins Jr.

Address: 1 Mountainside Way, Mt. Olive, WV. 25185

B. Additional Plaintiff(s) and Address(es): \_\_\_\_\_

N/A

Statement of the Claim

1. July 25, 2017, I was on the rec yard in Quilliams Unit-2 (Q2). I requested multiple times to speak to mental health. A unit team manager spoke with me while I was in a cage out on the rec yard. I briefly explained to them that I'd been trying for weeks to speak to Ms. Cooper from mental health yet she had been turned away numerous times. I stated I was at my end and desperately needed to talk to mental health. This interaction was being video taped by an officer, also present on the rec yard. Several inmates including Keith Lowe also witnessed the incident.
2. They left the rec-yard after I stated that I was going to stay on the rec yard until somebody called mental health.
3. Soon after, numerous correctional officers dressed in military riot gear stormed the rec yard come to my cage. They ask me to leave the cage and cuff up, I continued to request mental health, and that I would gladly leave the rec yard if they would just get mental health. After being ask if I was coming off, I had a brief discussion with Capt. Toney regarding his and my conversations about mental health being turned away and what he found out. He stated he had not had the time.
4. I then covered my eyes with my toboggan best I could and they sprayed me at least 4, but I'm sure it was 5 times back to back with 3 to 5 second burst. Way more than necessary to incapacitate me, blinding me and I could not breath.
5. They then opened the gate to the cage and rushed in on me tackling me to the ground.
6. Once I was completely restrained on the ground they were still assaulting me, one of them reached around and grabbed my throat with their hands and started choking me

for no reason, I was already subdued, restrained and not resisting.

7. I was then escorted to pod-6 shower and I took a shower.

8. I submitted a grievance regarding use of excessive on July 30, 2017  
grievance No. 17-mocr-Q2-1466, was denied by W.V. Doc commissioner.

9. I requested ~~a~~ that all stationary camera's, video camera's and all other  
video recordings of the incident be preserved, copied, etc.... (Ex#2)

10. Because of the spray I suffered a rash, trouble breathing, and eye irritation.

11. Because of the C.O. choking me my throat was bruised, and sore for 3-4 weeks.  
Could not swallow or eat, lost weight, and muscle/neck soreness.

12. I suffered mental and emotional distress

13. On or around August 5<sup>th</sup>, <sup>2017</sup> I submitted a sick call request.

14. I complained on a daily basis for weeks, I was given Medimino and Ice packs.

#### INVOLVEMENT

David Ballard is involved because he is the Correctional officer's Supervisor, he is also condoned a pattern and practice of use of excessive force, and has been found liable in the past of Supervisory Liability in another use of force case.

Capt. Torrey was part of the group of C.O.'s who applied excessive force and so was C.O. Dempsey, and John Doe #1 and #2.

my Claims are:

Count's;

1. excessive use of force
2. Supervisor liability
3. Emotional and mental distress

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: David Ballard

<sup>was</sup>  
~~is~~ employed as: Warden

at Mocc.

D. Additional defendants: Capt. Toney, works at Mocc

C.O. Dempsey; John Doe #1; and John Doe #2 all  
work at Mocc.

#### IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

+ Please see Attached +

**IV. Statement of Claim (continued):**

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**V. Relief**

State briefly exactly what you want the court to do for you. Make no legal arguments.  
Cite no cases or statutes.

- Compensatory damages
- Punitive damages
- and any relief this court deem fair and just.

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V. Relief (continued):

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VII. Counsel

- A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

Another inmate, explained how to do it, and I did it.

- B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes \_\_\_\_\_ No ✓

If so, state the name(s) and address(es) of each lawyer contacted:

NA

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If not, state your reasons: None

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- C. Have you previously had a lawyer representing you in a civil action in this court?

Yes \_\_\_\_\_ No ✗

If so, state the lawyer's name and address:

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Signed this 13<sup>th</sup> day of February, 20 18.

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Dear address

Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/13/2013  
(Date)

Dear Address

Signature of Movant/Plaintiff

N/A  
Signature of Attorney  
(if any)

**RECEIVED**Policy Directive 335.00  
01 February 2014  
Attachment #2AUG 01 2017  
ONE STAPLE ONLY**APPROVED FOR INMATE VIEWING**  
**QUILLIAMS, S.**Inmate Name: STEVEN LEE ALKINS JR. DOC # 3556462Grievance No. 17 MAR Q2 - 4666Date of Grievance JULY-30-17 639 727

State Nature of Grievance / Issue to be addressed (Note: 1 issue per grievance be concise file with Unit Manager NO WRITING ON BACK):

*EXCESSIVE USE OF FORCE WAS USED AGAINST ME ON THE 25TH OF JULY AND 28TH OF JULY, INJURING MY LEFT BODY TIMES. I WANT A COPY OF THIS, & WANT ALL VIDEOS / AUDIOS / AND DOCUMENTS TO BE PRESERVED PERTAINING TO THESE EVENTS.*

Relief Sought (state what you want):

*I WANT TO KNOW WHY EXCESSIVE USE OF FORCE WAS USED AND FOR IT TO STOP.*

Inmate's Signature

(The inmate may attach 1 8.5 x 11 sheet if necessary at this level only)

\*\*\*\*\*

Unit Manager's Response (attach additional sheet if needed)

Accepted Rejected 

Reason for rejection:

Date: \_\_\_\_\_

Response on Merits if accepted:

*While being escorted from your cell you broke from the officer's doing a hand's on escort. You then attempted to attack Capt. C. Newland & Pittman. The level force used was one step higher than that your action and was needed to regain control.*

Signature

\*\*\*\*\*

Resolved: \_\_\_\_\_ (if so initial and give copy to unit manager)      Appealed to Warden/Administrator  (initial) Date: AUG 17-17

If no response at initial level is included the inmate certifies that he/she has tendered this grievance as indicated above and no response has been issued at that level within the time frames set forth in Policy Directive 335.00

Inmate's Signature

Date \_\_\_\_\_

Action by Warden/Administrator:

Accepted Rejected 

Reason for rejection:

Date: \_\_\_\_\_

Response on Merits if accepted:  Remand to Unit for further action ANS Affirm and/or deny grievance  Grant the Grievance as specified

Comments: \_\_\_\_\_

AUG 23 2017 (Attach additional sheet if necessary)

Date: \_\_\_\_\_

Warden/Administrator's Signature

Resolved: \_\_\_\_\_ (if so initial and give copy to unit manager)      Appealed to Commissioner  (initial)

If no response at Warden/Administrator's level is included, the inmate certifies that he/she has tendered this grievance as indicated above and no response has been issued at that level within the time frames set forth in Policy Directive 335.00

Inmate's Signature

**Affirmed**

Grievance Denied

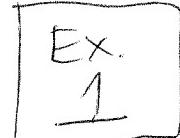
Central Office

Grievance Review

Action by Commissioner:

Accepted  Rejected  Reason for rejResponse on Merits if accepted:  Affirm Warden/Administrator and deny grievance (Affix final stamp) Other, memo attached.

AUG 18 2017

WARDEN'S OFFICE  
MOCC

MOUNT OLIVE CORRECTIONAL COMPLEX  
UNIT TEAM REQUEST FORM  
QUILLIAMS 2

Date: JULY-30-17

I, Steven Lee Atkins Jr., DOC # 3556462, Cell # 604 need to speak with/receive a reply from the Segregation Commander, Case Manager, Counselor, Office Assistant (circle one) regarding:

I'm respectfully requesting any and all videos including the rec yard stationary cameras, any and all audio and any and all documentation regarding the use of force used on me on the 25<sup>th</sup> of July 2017 and the 28<sup>th</sup> of July 2017.

Steven Atkins 3556462  
Signature/DOC #

REPLY:

Date: \_\_\_\_\_

\_\_\_\_\_  
Staff Signature/Title

COPIES

All requests for legal copies will be forwarded to the Law Library. You will need to fill out a Legal Request Form with instructions along with a voucher. Copies are 15 cents a page. The Library picks up and delivers on Monday, Wednesday, and Friday. No copies will be made in the Unit. No exceptions!

30 July 2017  
Co" Matthew Isaac  
Co" [Signature]

EX.  
2